

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Tori Staton,)	
)	
Plaintiff,)	
)	Civil Action No. 8:22-cv-2545-BHH
v.)	
)	
Andrew Arcer, <i>Officer Sergeant, in</i>)	<u>ORDER</u>
individual and official capacities,)	
)	
Defendants.)	
_____)	

This matter is before the Court upon Plaintiff Tori Staton's ("Plaintiff") amended complaint filed pursuant to 42 U.S.C. § 1983. On November 15, 2023, Defendant filed a motion to dismiss for lack of prosecution (ECF No. 52), and the matter was referred to a United States Magistrate Judge for preliminary review in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2), D.S.C. On November 15, 2023, the Magistrate Judge issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the dismissal procedures and the possible consequences if she failed to respond to the motion.

Plaintiff never responded to Defendant's motion, and on January 24, 2024, the Magistrate Judge issued a report and recommendation ("Report"), outlining the issues and recommending that the Court grant Defendant's motion and dismiss this action for failure to pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Magistrate Judge further recommended that the Court find moot Defendant's other pending motion (ECF No. 45). Attached to the Magistrate Judge's Report was a notice advising the parties of the right to file written objections to the Report within fourteen days of being served with a

copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections have been filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge’s analysis. **Accordingly, the Court adopts the Magistrate Judge’s Report (ECF No. 57), and the Court grants Defendant’s motion to dismiss for failure to prosecute (ECF No. 52). The Court finds moot Defendant’s other pending motion (ECF No. 45), and this action is hereby dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.**

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

February 12, 2024
Charleston, South Carolina